

comply with the requirements of paragraph (a) of this section by noting its supplemental certification decision on the original certificate as provided for in § 240.223(c).

(e) A railroad responsible for controlling the conduct of joint operations with another railroad shall be deemed to be in compliance with paragraph (a) of this section when it provides a qualified person to accompany a locomotive engineer who lacks joint operations certification during that engineer's operations in joint operations territory. As used in this section qualified person means either a designated supervisor of locomotive engineers or a certified train service engineer determined by the controlling railroad to have the necessary knowledge concerning the controlling railroad's operating rules and to have the necessary operating skills including familiarity with its physical characteristics concerning the joint operations territory.

(f) A railroad that is responsible for controlling the conduct of joint operations with another railroad may permit a certified locomotive engineer to operate a locomotive in any class of train or engine service without determining that the person has been certified as a qualified locomotive engineer for the purposes of joint operations when a minimal joint operation is involved. For the purposes of this section a minimal joint operation exists when a locomotive or train belonging to one railroad is being operated on the same track on which operations are conducted by the railroad controlling operations, under the following conditions:

(1) The maximum authorized speed for operations on the track does not exceed 20 miles per hour;

(2) The track is other than a main track;

(3) Operations are conducted under operating rules that require every locomotive and train to proceed at a speed that permits stopping within one half the range of vision of the locomotive engineer; and

(4) The maximum distance for joint operations on the track does not exceed one mile.

[56 FR 28254, June 19, 1991, as amended at 58 FR 19003, Apr. 9, 1993]

## Subpart D—Administration of the Certification Programs

### § 240.301 Replacement of certificates.

A railroad shall have a system for the prompt replacement of lost, stolen or mutilated certificates and that system shall be reasonably accessible to certified locomotive engineers in need of a replacement certificate.

### § 240.303 Operational monitoring requirements.

(a) After December 31, 1991, each railroad to which this part applies shall, prior to FRA approval of its program in accordance with § 240.201, have a program to monitor the conduct of its certified locomotive engineers by performing both operational monitoring observations and by conducting unannounced operating rules compliance tests.

(b) The program shall be conducted so that each locomotive engineer shall be given at least one operational monitoring observation by a qualified supervisor of locomotive engineers in each calendar year.

(c) The program shall be conducted so that each locomotive engineer shall be given at least one unannounced compliance test each calendar year.

(d) The unannounced test program shall:

(1) Test engineer compliance with one or more provisions of the railroad's operating rules that require response to signals that display less than a "clear" aspect, if the railroad operates with a signal system that must comply with part 236 of this chapter;

(2) Test engineer compliance with one or more provisions of the railroad's operating rules, timetable or other mandatory directives that require affirmative response by the locomotive engineer to less favorable conditions than that which existed prior to initiation of the test;

(3) Test engineer compliance with provisions of the railroad's operating rules, timetable or other mandatory directives the violations of which by engineers were cited by the railroad as the cause of train accidents or train incidents in accident reports filed in compliance with part 225 of this chapter for the preceding year;

§ 240.305

(4) Be conducted that so that the administration of these tests is effectively distributed throughout whatever portion of a 24-hour day that the railroad conducts its operations;

(5) Be conducted so that individual tests are administered without prior notice to the locomotive engineer being tested; and

(6) Be conducted so that the results of the test are recorded on the certificate and entered on the record established under §240.215 within 30 days of the day the test is administered.

**§ 240.305 Prohibited conduct.**

After December 31, 1991,

(a) It shall be unlawful to:

(1) Operate a locomotive or train at a speed that exceeds the maximum authorized limit by at least 10 miles per hour or by more than one half of the authorized speed, whichever is less;

(2) Operate a locomotive or train past any signal, without completely stopping the locomotive or train, when that signal requires a complete stop before passing it; or

(3) Fail to comply with any mandatory directive concerning the movement of a locomotive or train by occupying a segment of main track without authority.

(b) Each locomotive engineer who has received a certificate required under this part shall:

(1) Have that certificate in his or her possession while on duty as an engineer; and

(2) Display that certificate upon the receipt of a request to do so from

(i) A representative of the Federal Railroad Administration,

(ii) An officer of the issuing railroad, or

(iii) An officer of another railroad when operating a locomotive or train in joint operations territory.

(c) Any locomotive engineer who is notified or called to operate a locomotive or train and such operation would cause the locomotive engineer to exceed certificate limitations, set forth in accordance with subpart B of this part, shall immediately notify the railroad that he or she is not qualified to perform that anticipated service and it shall be unlawful for the railroad to require such service.

49 CFR Ch. II (10–1–98 Edition)

(d) During the duration of any certification interval, a locomotive engineer who has a current certificate from more than one railroad shall immediately notify the other certifying railroad(s) if he or she is denied recertification by a railroad or has his or her certification revoked by a railroad.

(e) Nothing in this section shall be deemed to alter a certified locomotive engineer's duty to comply with other provisions of this chapter concerning railroad safety.

[56 FR 28254, June 19, 1991, as amended at 58 FR 19004, Apr. 9, 1993]

**§ 240.307 Revocation of certification.**

(a) Except as provided for in §240.119(e), a railroad that certifies or recertifies a person as a qualified locomotive engineer and, during the period that certification is valid, acquires information which convinces the railroad that the person no longer meets the qualification requirements of this part, shall revoke the person's certificate as a qualified locomotive engineer.

(b) Pending a revocation determination under this section, the railroad shall:

(1) Upon receipt of reliable information indicating the person's lack of qualification under this part, immediately suspend the person's certificate;

(2) Prior to or upon suspending the person, provide notice of the reason for this suspension, the pending revocation, and an opportunity for hearing before a presiding officer other than the charging official;

(3) Convene the hearing within the deadline prescribed by either paragraph (c)(1) of this section or the applicable collective bargaining agreement as permitted under paragraph (d) of this section;

(4) Determine, on the record of the hearing, whether the person no longer meets the qualification requirements of this part stating explicitly the basis for the conclusion reached;

(5) When appropriate, impose the pertinent period of revocation provided for in §240.117 or §240.119; and

(6) Retain the record of the hearing for 3 years after the date the decision is rendered.